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16 UNITED STATES DISTRICT COURT  
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17 NORTHERN DISTRICT OF CALIFORNIA  
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18 SAN FRANCISCO DIVISION  
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20 MPH TECHNOLOGIES OY,  
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21 Plaintiff,  
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22 vs.  
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23 APPLE INC.,  
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24 Defendant.  
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25 Case No. 3:18-cv-05935-TLT

26 [PROPOSED] JOINT  
26 STIPULATION TO DISMISS THE  
27 PARTIES' CLAIMS, DEFENSES  
27 AND COUNTERCLAIMS ON  
28 UNITED STATES PATENT NO.  
28 8,037,302 WITHOUT PREJUDICE

29 Judge: Hon. Trina L. Thompson

Pursuant to Civil L.R. 7-12, Plaintiff MPH Technologies Oy (“MPH”) and Defendant Apple Inc. (“Apple”) submit this *Joint Stipulation to Dismiss the Parties’ Claims, Defenses and Counterclaims on United States Patent No. 8,037,302 Without Prejudice and to Toll 35 U.S.C. § 286 Damages Period.*

IT IS HEREBY AGREED AND STIPULATED by and between the parties, through their respective counsel, subject to the Court’s approval, as follows:

1. MPH dismisses all claims of alleged infringement of United States Patent No. 8,037,302 (“the ’302 patent”) in the above-captioned action without prejudice.
2. Apple dismisses all defenses and counterclaims regarding the ’302 patent without prejudice.
3. MPH agrees not to re-assert the ’302 patent against Apple before final resolution of any appeals and any cross-appeals related to MPH’s claims of infringement regarding United States Patent Nos. 8,346,949; 9,762,397; 9,712,494; 9,712,502; 9,838,362, and 7,937,581 and that MPH will file any such new lawsuit in the Northern District of California, and Apple agrees not to seek a claim in a declaratory judgment lawsuit alleging invalidity of the ’302 patent before final resolution of any appeals and any cross-appeals related to MPH’s claims of infringement regarding United States Patent Nos. 8,346,949; 9,762,397; 9,712,494; 9,712,502; 9,838,362, and 7,937,581 and that Apple will file any such new lawsuit in the Northern District of California.
4. Should MPH re-assert the ’302 patent against Apple in the future, the parties stipulate that (a) the statutory period of recovery under 35 U.S.C. § 286 is hereby tolled as of the September 27, 2018 filing date of this lawsuit with respect to the ’302 patent such that, in any subsequent lawsuit by MPH against Apple alleging infringement of the ’302 patent, Apple will not assert 35 U.S.C. § 286 as a defense to MPH’s claims for damages for any alleged infringement of the ’302 patent occurring on or after September 17, 2014 (the alleged date of first infringement); (b) Apple will not assert any other defense or argument in any future ’302 patent lawsuit that MPH is barred from seeking damages for any alleged infringement of the ’302 patent occurring on or after September 17, 2014 (the alleged date of first infringement) based on this stipulation; and (c) in the event of any judicial order or decision that MPH is barred from seeking damages in the district court for any alleged infringement of the ’302 patent occurring on or after September 17, 2014 (the alleged date of first infringement), Apple will not assert 35 U.S.C. § 286 as a defense to MPH’s claims for damages for any alleged infringement of the ’302 patent occurring on or after September 17, 2014 (the alleged date of first infringement).

1 infringement), Apple and MPH will resolve any such damage claim in a private arbitration  
2 proceeding based on the same evidence, expert reports and testimony used in any future '302 patent  
3 lawsuit in the district court; (d) that, in any subsequent lawsuit by MPH against Apple alleging  
4 infringement of the '302 patent, the parties shall not serve any new or additional discovery related  
5 to the '302 patent, including deposition notices, deposition topics, and subpoenas; (e) that the  
6 parties shall have no obligation to respond to new discovery requests to the extent they pertain to  
7 the '302 patent; and (f) the parties' previously served Patent Local Rule 3-1, 3-3, 3-8, and 3-9  
8 contentions as they apply to the '302 patent shall remain effective in any such new lawsuit, and any  
9 attempts to amend the contentions shall remain subject to the Patent Local Rules.

10 5. This dismissal without prejudice has no effect on or consequence as to MPH's other patent  
11 infringement claims asserting U.S. Patent No. 7,937,581, U.S. Patent No. 8,346,949, U.S. Patent  
12 No. 9,762,397, U.S. Patent No. 9,712,494, U.S. Patent No. 9,712,502, and U.S. Patent No.  
13 9,838,362. Nor does this dismissal without prejudice constitute any admission with respect to the  
14 merit or lack of merit of the parties' claims, defenses and counterclaims in this litigation.  
15 6. Each party will bear its own costs and attorneys' fees with respect to any claim, counterclaim, or  
16 defense that is dismissed without prejudice pursuant to this notice.

17 **IT IS SO STIPULATED.**

1 Dated: September 23, 2024

Respectfully submitted,  
/s/ Christopher J. Lee

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3 Attorneys for Plaintiff  
4 MPH TECHNOLOGIES OY

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13 Dated: September 23, 2024

14 Respectfully submitted,  
/s/ Bita Rahebi

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## **ATTESTATION OF CONCURRENCE IN FILING**

Pursuant to Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from each of the signatories listed above.

Dated: September 23, 2024

/s/ Christopher J. Lee

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2       **PURSUANT TO STIPULATION, IT IS SO ORDERED.**  
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Honorable Trina Thompson  
United States District Judge

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[PROPOSED] JOINT STIPULATED JUDGMENT AND ORDER TO DISMISS THE PARTIES' CLAIMS, DEFENSES AND COUNTERCLAIMS ON UNITED STATES PATENT NO. 8,037,302 WITHOUT PREJUDICE  
CASE NO. 3:18-CV-05935-TLT  
sf-6138748